

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SAHIL CHAUDHARY ,

Petitioner,

v.

WILLIAM P. BARR, et al.,

Respondents.

CASE NO. C20-635-RSM-BAT

**ORDER DENYING SECOND
MOTION FOR TEMPORARY
RESTRAINING ORDER**

I. INTRODUCTION

Petitioner Chaudhary is an immigration detainee in U.S. Immigration Customs and Enforcement (“ICE”) custody at the Northwest ICE Processing Center (“NWIPC”) in Tacoma, Washington. Proceeding through counsel, he filed a habeas petition pursuant to 28 U.S.C. § 2241 and Complaint for injunctive relief seeking a stay of removal, Dkt. #1, and a Motion for Temporary Restraining Order (“TRO”) requesting the same relief, Dkt. #2. The TRO Motion was denied by this Court. Dkt. #3. He has now filed a Second Motion for TRO. Dkt. #10. Respondents have not yet filed notice of intent to respond. Having considered Petitioner’s submissions, the balance of the record, and the governing law, the Court DENIES Petitioner’s Second Motion for TRO.

II. BACKGROUND

The background facts of this case have been set forth in the Court’s prior Order and are

1 incorporated herein by reference. *See* Dkt. #3.

2 Petitioner now informs his attorney who states via declaration that on June 8, 2020,
3 Petitioner was taken to a room at the Northwest ICE Processing Center and told by an ICE officer
4 that he “must provide his passport within 24 hours or he would have to sign a document agreeing
5 to his immediate removal, and that he would be immediately deported.” Dkt. #10-1 at 3. Petitioner
6 replied to the officer that he did not have his passport and that he was represented by counsel who
7 had filed a petition on his behalf. *Id.* The officer then apparently told him to contact his counsel
8 to submit the identity documents. Petitioner’s counsel declares that he was contacted today by a
9 friend of Mr. Chaudhary’s (unnamed in the declaration) who said “Mr. Chaudhary was taken by
10 ICE/ERO at 9:30 AM this morning to have his photos taken and was told that he must submit
11 identity documents.” *Id.* Today an ICE officer also contacted Petitioner’s counsel to obtain
12 Petitioner’s identity documents. *Id.* Given these circumstances, Petitioner’s counsel has filed a
13 second TRO seeking to stay deportation.

14 III. DISCUSSION

15 In evaluating whether to issue a stay, the Court considers four factors: “(1) whether the
16 stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether
17 the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will
18 substantially injure the other parties interested in the proceeding; and (4) where the public interest
19 lies.” *Leiva-Perez v. Holder*, 640 F.3d 962, 964 (9th Cir. 2011) (per curiam) (quoting *Nken v.*
20 *Holder*, 556 U.S. 418, 434 (2009)). This test is also satisfied where a petitioner shows “that
21 irreparable harm is probable and either: (a) a strong likelihood of success on the merits and that
22 the public interest does not weigh heavily against a stay; or (b) a substantial case on the merits and
23 that the balance of hardships tips sharply in the petitioner’s favor.” *Id.* at 970.

1 A petitioner must show that an irreparable injury is the more probable or likely outcome if
2 the request for a stay of removal is denied. *Leiva-Perez*, 640 F.3d at 968 (citing *Alliance for the*
3 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)). “Although removal is a serious
4 burden for many [noncitizens], it is not categorically irreparable.” *Nken*, 556 U.S. at 435. Thus,
5 to satisfy this element, a petitioner “must show that there is a reason specific to his or her case, as
6 opposed to a reason that would apply equally well to all [noncitizens] and all cases, that removal
7 would inflict irreparable harm . . .” *Leiva-Perez*, 640 F.3d at 969. Factors bearing on irreparable
8 harm include, but are not limited to, whether removal would effectively prevent a noncitizen from
9 pursuing a petition for review, physical danger to the individual if returned to his or her home
10 country, separation from family members, medical needs, and potential economic hardship. *Id.* at
11 969-70.

12 The Court has reviewed the additional submitted facts and briefing and again finds that the
13 allegations in Petitioner’s habeas petition and Motion do not establish a probability of irreparable
14 harm for two reasons. First, Petitioner has failed to present sufficient evidence that his removal is
15 imminent or even scheduled to occur. The new declaration submitted by Petitioner’s counsel states
16 only that his client was informed that he would be deported soon if he did not provide his passport;
17 subsequent communications indicate that Petitioner’s counsel has been given the chance to provide
18 that passport and that the deportation has likely not been scheduled. The Court, and indeed
19 Petitioner’s counsel, are left to speculate as to what is happening. The Court is troubled by the
20 evidentiary weakness of certain facts submitted, *e.g.*, Petitioner’s counsel declaring that an
21 unnamed friend of his client told him that his client told him that he was told that he must submit
22 identity documents.

23 Second, Petitioner has failed to provide any additional factual support for the proposition

